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Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 287.05712, Florida Statutes, is transferred and renumbered as section 255.065, Florida Statutes, and amended to read:

255.065 ~~287.05712~~ Public-private partnerships.-

(1) DEFINITIONS.—As used in this section, the term:

(a) "Affected local jurisdiction" means a county, municipality, or special district in which all or a portion of a qualifying project is located.

(b) "Develop" means to plan, design, finance, lease, acquire, install, construct, or expand.

(c) "Fees" means charges imposed by the private entity of a qualifying project for use of all or a portion of such qualifying project pursuant to a comprehensive agreement.

(d) "Lease payment" means any form of payment, including a land lease, by a public entity to the private entity of a qualifying project for the use of the project.

(e) "Material default" means a nonperformance of its duties by the private entity of a qualifying project which jeopardizes adequate service to the public from the project.

(f) "Operate" means to finance, maintain, improve, equip, modify, or repair.

(g) "Private entity" means any natural person, corporation, general partnership, limited liability company,

53 limited partnership, joint venture, business trust, public
 54 benefit corporation, nonprofit entity, or other private business
 55 entity.

56 (h) "Proposal" means a plan for a qualifying project with
 57 detail beyond a conceptual level for which terms such as fixing
 58 costs, payment schedules, financing, deliverables, and project
 59 schedule are defined.

60 (i) "Qualifying project" means:

61 1. A facility or project that serves a public purpose,
 62 including, but not limited to, any ferry or mass transit
 63 facility, vehicle parking facility, airport or seaport facility,
 64 rail facility or project, fuel supply facility, oil or gas
 65 pipeline, medical or nursing care facility, recreational
 66 facility, sporting or cultural facility, or educational facility
 67 or other building or facility that is used or will be used by a
 68 public educational institution, or any other public facility or
 69 infrastructure that is used or will be used by the public at
 70 large or in support of an accepted public purpose or activity;

71 2. An improvement, including equipment, of a building that
 72 will be principally used by a public entity or the public at
 73 large or that supports a service delivery system in the public
 74 sector;

75 3. A water, wastewater, or surface water management
 76 facility or other related infrastructure; or

77 4. Notwithstanding any provision of this section, for
 78 projects that involve a facility owned or operated by the

79 governing board of a county, district, or municipal hospital or
 80 health care system, or projects that involve a facility owned or
 81 operated by a municipal electric utility, only those projects
 82 that the governing board designates as qualifying projects
 83 pursuant to this section.

84 (j) "Responsible public entity" means a county,
 85 municipality, school district, special district, Florida College
 86 System institution, or state university ~~board~~, or any other
 87 political subdivision of the state; a public body corporate and
 88 politic; or a regional entity that serves a public purpose and
 89 is authorized to develop or operate a qualifying project.

90 (k) "Revenues" means the income, earnings, user fees,
 91 lease payments, or other service payments relating to the
 92 development or operation of a qualifying project, including, but
 93 not limited to, money received as grants or otherwise from the
 94 Federal Government, a public entity, or an agency or
 95 instrumentality thereof in aid of the qualifying project.

96 (l) "Service contract" means a contract between a
 97 responsible public entity and the private entity which defines
 98 the terms of the services to be provided with respect to a
 99 qualifying project.

100 (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
 101 that there is a public need for the construction or upgrade of
 102 facilities that are used predominantly for public purposes and
 103 that it is in the public's interest to provide for the
 104 construction or upgrade of such facilities.

105 (a) The Legislature also finds that:

106 1. There is a public need for timely and cost-effective

107 acquisition, design, construction, improvement, renovation,

108 expansion, equipping, maintenance, operation, implementation, or

109 installation of projects serving a public purpose, including

110 educational facilities, transportation facilities, water or

111 wastewater management facilities and infrastructure, technology

112 infrastructure, roads, highways, bridges, and other public

113 infrastructure and government facilities within the state which

114 serve a public need and purpose, and that such public need may

115 not be wholly satisfied by existing procurement methods.

116 2. There are inadequate resources to develop new

117 educational facilities, transportation facilities, water or

118 wastewater management facilities and infrastructure, technology

119 infrastructure, roads, highways, bridges, and other public

120 infrastructure and government facilities for the benefit of

121 residents of this state, and that a public-private partnership

122 has demonstrated that it can meet the needs by improving the

123 schedule for delivery, lowering the cost, and providing other

124 benefits to the public.

125 3. There may be state and federal tax incentives that

126 promote partnerships between public and private entities to

127 develop and operate qualifying projects.

128 4. A procurement under this section serves the public

129 purpose of this section if such procurement facilitates the

130 timely development or operation of a qualifying project.

131 (b) It is the intent of the Legislature to encourage
 132 investment in the state by private entities; to facilitate
 133 various bond financing mechanisms, private capital, and other
 134 funding sources for the development and operation of qualifying
 135 projects, including expansion and acceleration of such financing
 136 to meet the public need; and to provide the greatest possible
 137 flexibility to public and private entities contracting for the
 138 provision of public services.

139 ~~(3) PUBLIC-PRIVATE PARTNERSHIP GUIDELINES TASK FORCE.~~

140 ~~(a) There is created the Partnership for Public Facilities~~
 141 ~~and Infrastructure Act Guidelines Task Force for the purpose of~~
 142 ~~recommending guidelines for the Legislature to consider for~~
 143 ~~purposes of creating a uniform process for establishing public-~~
 144 ~~private partnerships, including the types of factors responsible~~
 145 ~~public entities should review and consider when processing~~
 146 ~~requests for public-private partnership projects pursuant to~~
 147 ~~this section.~~

148 ~~(b) The task force shall be composed of seven members, as~~
 149 ~~follows:~~

150 ~~1. The Secretary of Management Services or his or her~~
 151 ~~designee, who shall serve as chair of the task force.~~

152 ~~2. Six members appointed by the Governor, as follows:~~

153 ~~a. One county government official.~~

154 ~~b. One municipal government official.~~

155 ~~e. One district school board member.~~

156 ~~d. Three representatives of the business community.~~

157 ~~(c) Task force members must be appointed by July 31, 2013.~~
158 ~~By August 31, 2013, the task force shall meet to establish~~
159 ~~procedures for the conduct of its business and to elect a vice~~
160 ~~chair. The task force shall meet at the call of the chair. A~~
161 ~~majority of the members of the task force constitutes a quorum,~~
162 ~~and a quorum is necessary for the purpose of voting on any~~
163 ~~action or recommendation of the task force. All meetings shall~~
164 ~~be held in Tallahassee, unless otherwise decided by the task~~
165 ~~force, and then no more than two such meetings may be held in~~
166 ~~other locations for the purpose of taking public testimony.~~
167 ~~Administrative and technical support shall be provided by the~~
168 ~~department. Task force members shall serve without compensation~~
169 ~~and are not entitled to reimbursement for per diem or travel~~
170 ~~expenses.~~

171 ~~(d) In reviewing public private partnerships and~~
172 ~~developing recommendations, the task force must consider:~~
173 ~~1. Opportunities for competition through public notice and~~
174 ~~the availability of representatives of the responsible public~~
175 ~~entity to meet with private entities considering a proposal.~~
176 ~~2. Reasonable criteria for choosing among competing~~
177 ~~proposals.~~
178 ~~3. Suggested timelines for selecting proposals and~~
179 ~~negotiating an interim or comprehensive agreement.~~
180 ~~4. If an accelerated selection and review and~~
181 ~~documentation timelines should be considered for proposals~~
182 ~~involving a qualifying project that the responsible public~~

183 ~~entity deems a priority.~~

184 ~~5. Procedures for financial review and analysis which, at~~
185 ~~a minimum, include a cost-benefit analysis, an assessment of~~
186 ~~opportunity cost, and consideration of the results of all~~
187 ~~studies and analyses related to the proposed qualifying project.~~

188 ~~6. The adequacy of the information released when seeking~~
189 ~~competing proposals and providing for the enhancement of that~~
190 ~~information, if deemed necessary, to encourage competition.~~

191 ~~7. Current exemptions from public records and public~~
192 ~~meetings requirements, if any changes to those exemptions are~~
193 ~~necessary, or if any new exemptions should be created in order~~
194 ~~to maintain the confidentiality of financial and proprietary~~
195 ~~information received as part of an unsolicited proposal.~~

196 ~~8. Recommendations regarding the authority of the~~
197 ~~responsible public entity to engage the services of qualified~~
198 ~~professionals, which may include a Florida-registered~~
199 ~~professional or a certified public accountant, not otherwise~~
200 ~~employed by the responsible public entity, to provide an~~
201 ~~independent analysis regarding the specifics, advantages,~~
202 ~~disadvantages, and long-term and short-term costs of a request~~
203 ~~by a private entity for approval of a qualifying project, unless~~
204 ~~the governing body of the public entity determines that such~~
205 ~~analysis should be performed by employees of the public entity.~~

206 ~~(c) The task force must submit a final report of its~~
207 ~~recommendations to the Governor, the President of the Senate,~~
208 ~~and the Speaker of the House of Representatives by July 1, 2014.~~

209 ~~(f) The task force is terminated December 31, 2014. The~~
 210 ~~establishment of guidelines pursuant to this section or the~~
 211 ~~adoption of such guidelines by a responsible public entity is~~
 212 ~~not required for such entity to request or receive proposals for~~
 213 ~~a qualifying project or to enter into a comprehensive agreement~~
 214 ~~for a qualifying project. A responsible public entity may adopt~~
 215 ~~guidelines so long as such guidelines are not inconsistent with~~
 216 ~~this section.~~

217 (3)~~(4)~~ PROCUREMENT PROCEDURES.—A responsible public entity
 218 may receive unsolicited proposals or may solicit proposals for
 219 qualifying projects and may thereafter enter into a a
 220 comprehensive an agreement with a private entity, or a
 221 consortium of private entities, for the building, upgrading,
 222 operating, ownership, or financing of facilities.

223 (a)1. The responsible public entity may establish a
 224 reasonable application fee for the submission of an unsolicited
 225 proposal under this section.

226 2. A private entity that submits an unsolicited proposal
 227 to a responsible public entity must concurrently pay the initial
 228 application fee, as determined by the responsible public entity.
 229 Payment must be made by cash, cashier's check, or other
 230 noncancelable instrument. Personal checks may not be accepted.

231 3. If the initial application fee does not cover the
 232 responsible public entity's costs to evaluate the unsolicited
 233 proposal, the responsible public entity must request in writing
 234 the additional amounts required. The private entity must pay the

235 requested additional amounts within 30 days after receipt of the
236 notice. Failure to pay the additional fee may result in the
237 responsible public entity stopping its review of the unsolicited
238 proposal.

239 4. If the responsible public entity does not evaluate the
240 unsolicited proposal, the responsible public entity must return
241 the application fee ~~The fee must be sufficient to pay the costs~~
242 ~~of evaluating the proposal. The responsible public entity may~~
243 ~~engage the services of a private consultant to assist in the~~
244 ~~evaluation.~~

245 (b) The responsible public entity may request a proposal
246 from private entities for a qualifying ~~public-private~~ project
247 or, if the responsible public entity receives an unsolicited
248 proposal for a qualifying ~~public-private~~ project and the
249 responsible public entity intends to enter into a comprehensive
250 agreement for the project described in the ~~such~~ unsolicited
251 proposal, the responsible public entity shall publish notice in
252 the Florida Administrative Register and a newspaper of general
253 circulation at least once a week for 2 weeks stating that the
254 responsible public entity has received a proposal and will
255 accept other proposals for the same project. The timeframe
256 within which the responsible public entity may accept other
257 proposals shall be determined by the responsible public entity
258 on a project-by-project basis based upon the complexity of the
259 qualifying project and the public benefit to be gained by
260 allowing a longer or shorter period of time within which other

261 proposals may be received; however, the timeframe for allowing
 262 other proposals must be at least 21 days, but no more than 120
 263 days, after the initial date of publication. If approved by
 264 majority vote of the responsible public entity's governing body,
 265 the responsible public entity may alter the timeframe for
 266 accepting proposals to more adequately suit the needs of the
 267 qualifying project. A copy of the notice must be mailed to each
 268 local government in the affected area.

269 ~~(c) A responsible public entity that is a school board may~~
 270 ~~enter into a comprehensive agreement only with the approval of~~
 271 ~~the local governing body.~~

272 (c)-(d) Before approving a comprehensive agreement
 273 ~~approval,~~ the responsible public entity must determine that the
 274 proposed project:

- 275 1. Is in the public's best interest.
- 276 2. Is for a facility that is owned by the responsible
 277 public entity or for a facility for which ownership will be
 278 conveyed to the responsible public entity.
- 279 3. Has adequate safeguards in place to ensure that
 280 additional costs or service disruptions are not imposed on the
 281 public in the event of material default or cancellation of the
 282 comprehensive agreement by the responsible public entity.
- 283 4. Has adequate safeguards in place to ensure that the
 284 responsible public entity or private entity has the opportunity
 285 to add capacity to the proposed project or other facilities
 286 serving similar predominantly public purposes.

287 5. Will be owned by the responsible public entity upon
 288 completion, expiration, or termination of the comprehensive
 289 agreement and upon payment of the amounts financed.

290 (d)~~(e)~~ Before signing a comprehensive agreement, the
 291 responsible public entity must consider a reasonable finance
 292 plan that is consistent with subsection (9)~~(11)~~; the qualifying
 293 project cost; revenues by source; available financing; major
 294 assumptions; internal rate of return on private investments, if
 295 governmental funds are assumed in order to deliver a cost-
 296 feasible project; and a total cash-flow analysis beginning with
 297 the implementation of the project and extending for the term of
 298 the comprehensive agreement.

299 (e)~~(f)~~ In considering an unsolicited proposal, the
 300 responsible public entity may require from the private entity a
 301 technical study prepared by a nationally recognized expert with
 302 experience in preparing analysis for bond rating agencies. In
 303 evaluating the technical study, the responsible public entity
 304 may rely upon internal staff reports prepared by personnel
 305 familiar with the operation of similar facilities or the advice
 306 of external advisors or consultants who have relevant
 307 experience.

308 (4)~~(5)~~ PROJECT APPROVAL REQUIREMENTS.—An unsolicited
 309 proposal from a private entity for approval of a qualifying
 310 project must be accompanied by the following material and
 311 information, unless waived by the responsible public entity:

312 (a) A description of the qualifying project, including the

313 conceptual design of the facilities or a conceptual plan for the
 314 provision of services, and a schedule for the initiation and
 315 completion of the qualifying project.

316 (b) A description of the method by which the private
 317 entity proposes to secure the necessary property interests that
 318 are required for the qualifying project.

319 (c) A description of the private entity's general plans
 320 for financing the qualifying project, including the sources of
 321 the private entity's funds and the identity of any dedicated
 322 revenue source or proposed debt or equity investment on behalf
 323 of the private entity.

324 (d) The name and address of a person who may be contacted
 325 for additional information concerning the proposal.

326 (e) The proposed user fees, lease payments, or other
 327 service payments over the term of a comprehensive agreement, and
 328 the methodology for and circumstances that would allow changes
 329 to the user fees, lease payments, and other service payments
 330 over time.

331 (f) Additional material or information that the
 332 responsible public entity reasonably requests.

333

334 Any pricing or financial terms included in an unsolicited
 335 proposal must be specific as to when the pricing or terms
 336 expire.

337 (5)-(6) PROJECT QUALIFICATION AND PROCESS.-

338 (a) The private entity, or applicable party or parties of

339 the private entity's team, must meet the minimum standards
340 contained in the responsible public entity's guidelines for
341 qualifying professional services and contracts for traditional
342 procurement projects.

343 (b) The responsible public entity must:

344 1. Ensure that provision is made for the private entity's
345 performance and payment of subcontractors, including, but not
346 limited to, surety bonds, letters of credit, parent company
347 guarantees, and lender and equity partner guarantees. For the
348 components of the qualifying project which involve construction
349 performance and payment, bonds are required and are subject to
350 the recordation, notice, suit limitation, and other requirements
351 of s. 255.05.

352 2. Ensure the most efficient pricing of the security
353 package that provides for the performance and payment of
354 subcontractors.

355 3. Ensure that ~~provision is made for the transfer of the~~
356 ~~private entity's obligations if the comprehensive agreement~~
357 addresses termination upon ~~is terminated or~~ a material default
358 of the comprehensive agreement occurs.

359 (c) After the public notification period has expired in
360 the case of an unsolicited proposal, the responsible public
361 entity shall rank the proposals received in order of preference.
362 In ranking the proposals, the responsible public entity may
363 consider factors that include, but are not limited to,
364 professional qualifications, general business terms, innovative

365 design techniques or cost-reduction terms, and finance plans.
 366 The responsible public entity may then begin negotiations for a
 367 comprehensive agreement with the highest-ranked firm. If the
 368 responsible public entity is not satisfied with the results of
 369 the negotiations, the responsible public entity may terminate
 370 negotiations with the proposer and negotiate with the second-
 371 ranked or subsequent-ranked firms, in the order consistent with
 372 this procedure. If only one proposal is received, the
 373 responsible public entity may negotiate in good faith, and if
 374 the responsible public entity is not satisfied with the results
 375 of the negotiations, the responsible public entity may terminate
 376 negotiations with the proposer. Notwithstanding this paragraph,
 377 the responsible public entity may reject all proposals at any
 378 point in the process until a contract with the proposer is
 379 executed.

380 (d) The responsible public entity shall perform an
 381 independent analysis of the proposed public-private partnership
 382 which demonstrates the cost-effectiveness and overall public
 383 benefit before the procurement process is initiated or before
 384 the contract is awarded.

385 (e) The responsible public entity may approve the
 386 development or operation of an educational facility, a
 387 transportation facility, a water or wastewater management
 388 facility or related infrastructure, a technology infrastructure
 389 or other public infrastructure, or a government facility needed
 390 by the responsible public entity as a qualifying project, or the

391 design or equipping of a qualifying project that is developed or
 392 operated, if:

393 1. There is a public need for or benefit derived from a
 394 project of the type that the private entity proposes as the
 395 qualifying project.

396 2. The estimated cost of the qualifying project is
 397 reasonable in relation to similar facilities.

398 3. The private entity's plans will result in the timely
 399 acquisition, design, construction, improvement, renovation,
 400 expansion, equipping, maintenance, or operation of the
 401 qualifying project.

402 (f) The responsible public entity may charge a reasonable
 403 fee to cover the costs of processing, reviewing, and evaluating
 404 the request, including, but not limited to, reasonable attorney
 405 fees and fees for financial and technical advisors or
 406 consultants and for other necessary advisors or consultants.

407 (g) Upon approval of a qualifying project, the responsible
 408 public entity shall establish a date for the commencement of
 409 activities related to the qualifying project. The responsible
 410 public entity may extend the commencement date.

411 (h) Approval of a qualifying project by the responsible
 412 public entity is subject to entering into a comprehensive
 413 agreement with the private entity.

414 ~~(7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.—~~

415 ~~(a) The responsible public entity must notify each~~
 416 ~~affected local jurisdiction by furnishing a copy of the proposal~~

417 ~~to each affected local jurisdiction when considering a proposal~~
418 ~~for a qualifying project.~~

419 ~~(b) Each affected local jurisdiction that is not a~~
420 ~~responsible public entity for the respective qualifying project~~
421 ~~may, within 60 days after receiving the notice, submit in~~
422 ~~writing any comments to the responsible public entity and~~
423 ~~indicate whether the facility is incompatible with the local~~
424 ~~comprehensive plan, the local infrastructure development plan,~~
425 ~~the capital improvements budget, any development of regional~~
426 ~~impact processes or timelines, or other governmental spending~~
427 ~~plan. The responsible public entity shall consider the comments~~
428 ~~of the affected local jurisdiction before entering into a~~
429 ~~comprehensive agreement with a private entity. If an affected~~
430 ~~local jurisdiction fails to respond to the responsible public~~
431 ~~entity within the time provided in this paragraph, the~~
432 ~~nonresponse is deemed an acknowledgment by the affected local~~
433 ~~jurisdiction that the qualifying project is compatible with the~~
434 ~~local comprehensive plan, the local infrastructure development~~
435 ~~plan, the capital improvements budget, or other governmental~~
436 ~~spending plan.~~

437 ~~(6)(8)~~ INTERIM AGREEMENT.—Before or in connection with the
438 negotiation of a comprehensive agreement, the responsible public
439 entity may enter into an interim agreement with the private
440 entity proposing the development or operation of the qualifying
441 project. An interim agreement does not obligate the responsible
442 public entity to enter into a comprehensive agreement. The

443 interim agreement is discretionary with the parties and is not
 444 required on a qualifying project for which the parties may
 445 proceed directly to a comprehensive agreement without the need
 446 for an interim agreement. An interim agreement must be limited
 447 to provisions that:

448 (a) Authorize the private entity to commence activities
 449 for which it may be compensated related to the proposed
 450 qualifying project, including, but not limited to, project
 451 planning and development, design, environmental analysis and
 452 mitigation, survey, other activities concerning any part of the
 453 proposed qualifying project, and ascertaining the availability
 454 of financing for the proposed facility or facilities.

455 (b) Establish the process and timing of the negotiation of
 456 the comprehensive agreement.

457 (c) Contain such other provisions related to an aspect of
 458 the development or operation of a qualifying project that the
 459 responsible public entity and the private entity deem
 460 appropriate.

461 (7)~~(9)~~ COMPREHENSIVE AGREEMENT.—

462 (a) Before developing or operating the qualifying project,
 463 the private entity must enter into a comprehensive agreement
 464 with the responsible public entity. The comprehensive agreement
 465 must provide for:

466 1. Delivery of performance and payment bonds, letters of
 467 credit, or other security acceptable to the responsible public
 468 entity in connection with the development or operation of the

469 | qualifying project in the form and amount satisfactory to the
 470 | responsible public entity. For the components of the qualifying
 471 | project which involve construction, the form and amount of the
 472 | bonds must comply with s. 255.05.

473 | 2. Review of the design for the qualifying project by the
 474 | responsible public entity and, if the design conforms to
 475 | standards acceptable to the responsible public entity, the
 476 | approval of the responsible public entity. This subparagraph
 477 | does not require the private entity to complete the design of
 478 | the qualifying project before the execution of the comprehensive
 479 | agreement.

480 | 3. Inspection of the qualifying project by the responsible
 481 | public entity to ensure that the private entity's activities are
 482 | acceptable to the responsible public entity in accordance with
 483 | the comprehensive agreement.

484 | 4. Maintenance of a policy of public liability insurance,
 485 | a copy of which must be filed with the responsible public entity
 486 | and accompanied by proofs of coverage, or self-insurance, each
 487 | in the form and amount satisfactory to the responsible public
 488 | entity and reasonably sufficient to ensure coverage of tort
 489 | liability to the public and employees and to enable the
 490 | continued operation of the qualifying project.

491 | 5. Monitoring by the responsible public entity of the
 492 | maintenance practices to be performed by the private entity to
 493 | ensure that the qualifying project is properly maintained.

494 | 6. Periodic filing by the private entity of the

495 appropriate financial statements that pertain to the qualifying
 496 project.

497 7. Procedures that govern the rights and responsibilities
 498 of the responsible public entity and the private entity in the
 499 course of the construction and operation of the qualifying
 500 project and in the event of the termination of the comprehensive
 501 agreement or a material default by the private entity. The
 502 procedures must include conditions that govern the assumption of
 503 the duties and responsibilities of the private entity by an
 504 entity that funded, in whole or part, the qualifying project or
 505 by the responsible public entity, and must provide for the
 506 transfer or purchase of property or other interests of the
 507 private entity by the responsible public entity.

508 8. Fees, lease payments, or service payments. In
 509 negotiating user fees, the fees must be the same for persons
 510 using the facility under like conditions and must not materially
 511 discourage use of the qualifying project. The execution of the
 512 comprehensive agreement or a subsequent amendment is conclusive
 513 evidence that the fees, lease payments, or service payments
 514 provided for in the comprehensive agreement comply with this
 515 section. Fees or lease payments established in the comprehensive
 516 agreement as a source of revenue may be in addition to, or in
 517 lieu of, service payments.

518 9. Duties of the private entity, including the terms and
 519 conditions that the responsible public entity determines serve
 520 the public purpose of this section.

521 (b) The comprehensive agreement may include:

522 1. An agreement by the responsible public entity to make

523 grants or loans to the private entity from amounts received from

524 the federal, state, or local government or an agency or

525 instrumentality thereof.

526 2. A provision under which each entity agrees to provide

527 notice of default and cure rights for the benefit of the other

528 entity, including, but not limited to, a provision regarding

529 unavoidable delays.

530 3. A provision that terminates the authority and duties of

531 the private entity under this section and dedicates the

532 qualifying project to the responsible public entity or, if the

533 qualifying project was initially dedicated by an affected local

534 jurisdiction, to the affected local jurisdiction for public use.

535 (8) (10) FEES.—A comprehensive ~~An~~ agreement entered into

536 pursuant to this section may authorize the private entity to

537 impose fees to members of the public for the use of the

538 facility. The following provisions apply to the comprehensive

539 agreement:

540 (a) The responsible public entity may develop new

541 facilities or increase capacity in existing facilities through a

542 comprehensive agreement with a private entity ~~agreements with~~

543 ~~public-private partnerships.~~

544 (b) The comprehensive ~~public-private partnership~~ agreement

545 must ensure that the facility is properly operated, maintained,

546 or improved in accordance with standards set forth in the

547 comprehensive agreement.

548 (c) The responsible public entity may lease existing fee-
 549 for-use facilities through a comprehensive ~~public-private~~
 550 ~~partnership~~ agreement.

551 (d) Any revenues must be authorized by and applied in the
 552 manner set forth in ~~regulated by the responsible public entity~~
 553 ~~pursuant to~~ the comprehensive agreement.

554 (e) A negotiated portion of revenues from fee-generating
 555 uses may ~~must~~ be returned to the responsible public entity over
 556 the life of the comprehensive agreement.

557 (9) ~~(11)~~ FINANCING.—

558 (a) A private entity may enter into a private-source
 559 financing agreement between financing sources and the private
 560 entity. A financing agreement and any liens on the property or
 561 facility must be paid in full at the applicable closing that
 562 transfers ownership or operation of the facility to the
 563 responsible public entity at the conclusion of the term of the
 564 comprehensive agreement.

565 (b) The responsible public entity may lend funds to
 566 private entities that construct projects containing facilities
 567 that are approved under this section.

568 (c) The responsible public entity may use innovative
 569 finance techniques associated with a public-private partnership
 570 under this section, including, but not limited to, federal loans
 571 as provided in Titles 23 and 49 C.F.R., commercial bank loans,
 572 and hedges against inflation from commercial banks or other

573 private sources. In addition, the responsible public entity may
 574 provide its own capital or operating budget to support a
 575 qualifying project. The budget may be from any legally
 576 permissible funding sources of the responsible public entity,
 577 including the proceeds of debt issuances. A responsible public
 578 entity may use the model financing agreement provided in s.
 579 489.145(6) for its financing of a facility owned by a
 580 responsible public entity. A financing agreement may not require
 581 the responsible public entity to indemnify the financing source,
 582 subject the responsible public entity's facility to liens in
 583 violation of s. 11.066(5), or secure financing of ~~by~~ the
 584 responsible public entity by a mortgage on, or security interest
 585 in, the real or tangible personal property of the responsible
 586 public entity in a manner that could result in the loss of the
 587 fee ownership of the property by the responsible public entity
 588 ~~with a pledge of security interest, and any such provision is~~
 589 void.

590 ~~(d) A responsible public entity shall appropriate on a~~
 591 ~~priority basis as required by the comprehensive agreement a~~
 592 ~~contractual payment obligation, annual or otherwise, from the~~
 593 ~~enterprise or other government fund from which the qualifying~~
 594 ~~projects will be funded. This required payment obligation must~~
 595 ~~be appropriated before other noncontractual obligations payable~~
 596 ~~from the same enterprise or other government fund.~~

597 (10) ~~(12)~~ POWERS AND DUTIES OF THE PRIVATE ENTITY.—

598 (a) The private entity shall:

599 1. Develop or operate the qualifying project in a manner
 600 that is acceptable to the responsible public entity in
 601 accordance with the provisions of the comprehensive agreement.

602 2. Maintain, or provide by contract for the maintenance or
 603 improvement of, the qualifying project if required by the
 604 comprehensive agreement.

605 3. Cooperate with the responsible public entity in making
 606 best efforts to establish interconnection between the qualifying
 607 project and any other facility or infrastructure as requested by
 608 the responsible public entity in accordance with the provisions
 609 of the comprehensive agreement.

610 4. Comply with the comprehensive agreement and any lease
 611 or service contract.

612 (b) Each private facility that is constructed pursuant to
 613 this section must comply with the requirements of federal,
 614 state, and local laws; state, regional, and local comprehensive
 615 plans; the responsible public entity's rules, procedures, and
 616 standards for facilities; and such other conditions that the
 617 responsible public entity determines to be in the public's best
 618 interest and that are included in the comprehensive agreement.

619 (c) The responsible public entity may provide services to
 620 the private entity. An agreement for maintenance and other
 621 services entered into pursuant to this section must provide for
 622 full reimbursement for services rendered for qualifying
 623 projects.

624 (d) A private entity of a qualifying project may provide

625 additional services for the qualifying project to the public or
 626 to other private entities if the provision of additional
 627 services does not impair the private entity's ability to meet
 628 its commitments to the responsible public entity pursuant to the
 629 comprehensive agreement.

630 (11)~~(13)~~ EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon the
 631 expiration or termination of a comprehensive agreement, the
 632 responsible public entity may use revenues from the qualifying
 633 project to pay current operation and maintenance costs of the
 634 qualifying project. If the private entity materially defaults
 635 under the comprehensive agreement, the compensation that is
 636 otherwise due to the private entity is payable to satisfy all
 637 financial obligations to investors and lenders on the qualifying
 638 project in the same way that is provided in the comprehensive
 639 agreement or any other agreement involving the qualifying
 640 project, if the costs of operating and maintaining the
 641 qualifying project are paid in the normal course. Revenues in
 642 excess of the costs for operation and maintenance costs may be
 643 paid to the investors and lenders to satisfy payment obligations
 644 under their respective agreements. A responsible public entity
 645 may terminate with cause and without prejudice a comprehensive
 646 agreement and may exercise any other rights or remedies that may
 647 be available to it in accordance with the provisions of the
 648 comprehensive agreement. The full faith and credit of the
 649 responsible public entity may not be pledged to secure the
 650 financing of the private entity. The assumption of the

651 development or operation of the qualifying project does not
 652 obligate the responsible public entity to pay any obligation of
 653 the private entity from sources other than revenues from the
 654 qualifying project unless stated otherwise in the comprehensive
 655 agreement.

656 (12)~~(14)~~ SOVEREIGN IMMUNITY.—This section does not waive
 657 the sovereign immunity of a responsible public entity, an
 658 affected local jurisdiction, or an officer or employee thereof
 659 with respect to participation in, or approval of, any part of a
 660 qualifying project or its operation, including, but not limited
 661 to, interconnection of the qualifying project with any other
 662 infrastructure or project. A county or municipality in which a
 663 qualifying project is located possesses sovereign immunity with
 664 respect to the project, including, but not limited to, its
 665 design, construction, and operation.

666 (13) DEPARTMENT OF MANAGEMENT SERVICES.—

667 (a) A responsible public entity may provide a copy of its
 668 comprehensive agreement to the Department of Management
 669 Services. A responsible public entity must redact any
 670 confidential or exempt information from the copy of the
 671 comprehensive agreement prior to providing it to the Department
 672 of Management Services.

673 (b) The Department of Management Services may accept and
 674 maintain copies of comprehensive agreements received from
 675 responsible public entities for the purpose of sharing
 676 comprehensive agreements with other responsible public entities.

677 (c) Nothing in this subsection requires a responsible
 678 public entity to provide a copy of its comprehensive agreement
 679 to the Department of Management Services.

680 (14)-(15) CONSTRUCTION.-

681 (a) This section shall be liberally construed to
 682 effectuate the purposes of this section.

683 (b) This section shall be construed as cumulative and
 684 supplemental to any other authority or power vested in or
 685 exercised by the governing body ~~board~~ of a county, municipality,
 686 special district, or municipal hospital or health care system
 687 including those contained in acts of the Legislature
 688 ~~establishing such public hospital boards or s. 155.40.~~

689 (c) This section does not affect any agreement or existing
 690 relationship with a supporting organization involving such
 691 governing body ~~board~~ or system in effect as of January 1, 2013.

692 (d)-(a) This section provides an alternative method and
 693 does not limit a county, municipality, special district, or
 694 other political subdivision of the state in the procurement or
 695 operation of a qualifying project ~~acquisition, design, or~~
 696 ~~construction of a public project~~ pursuant to other statutory or
 697 constitutional authority.

698 (e)-(b) Except as otherwise provided in this section, this
 699 section does not amend existing laws by granting additional
 700 powers to, or further restricting, a local governmental entity
 701 from regulating and entering into cooperative arrangements with

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702 | the private sector for the planning, construction, or operation
703 | of a facility.

704 | (f)~~(e)~~ This section does not waive any requirement of s.
705 | 287.055.

706 | Section 2. This act shall take effect July 1, 2015.